

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 25-02122-mj-LOUIS

UNITED STATES OF AMERICA
Plaintiff,

v.

KEINER CICILIA RODRIGUEZ,
Defendant.

_____/

**DEFENDANT'S UNOPPOSED MOTION TO PRESERVE POTENTIALLY
EXCULPATORY EVIDENCE**

The Defendant, Keiner Cicilia Rodriguez, through undersigned counsel, moves to preserve potentially exculpatory evidence in this case. In support thereof, the Defendant states the following:

The Defendant is charged by complaint with “knowing or in reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transported, or moved, or attempted to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).” [DE 1]. The defendant is alleged to have participated in transporting a portion of a group of undocumented aliens in a Toyota Corolla. Within the Complaint, the government alleges that the defendant was found in the passenger side of a Toyota Corolla which was also transporting undocumented aliens

from China, Ecuador and Brazil. The complaint alleges that Y.Y, Y.L., and E.C.¹ identified other defendants (Sedeno Rodriguez and/or Villares) as the smugglers who transported them. The complaint does not allege that Mr. Cicilia Rodriguez was responsible for transporting them. The defendant seeks to further question those three individuals to confirm they would exculpate Mr. Cicilia of illegally transporting them.

Furthermore, the complaint identifies H.T. and O.P. as aliens who identified Mr. Cicilia Rodriguez as one of the smugglers who transported them. The defendant would inquire from the other 20 individuals who apparently cannot identify the defendant as involved in smuggling or transporting them. That testimony would be exculpatory to Mr. Cicilia, and he would like that information preserved for trial.

These individuals are not U.S. Citizens, and the government is presumably going to need to remove them back to their country of origin. However, the Defendant believes that the witnesses in question may provide exculpatory testimony. While the defendant has certain subpoena powers in criminal cases, the defendant does not have the ability to maintain in the United States these witnesses or keep them from being removed to their country of origin.

¹ The government turned over a full list of all the undocumented aliens that these defendants were alleged to have smuggled or transported per the Court's order. However, there is no individual listed with initials E.C.

Therefore, the Defendant moves this Court to order the executive branch of the government, both the U.S. Attorney's Office and Immigration and Customs Enforcement, to preserve all 25 undocumented aliens who were detained and not physically deport these individuals until the parties and Court have an opportunity to determine if they are necessary witnesses in this case, whereupon the parties can move for material witness depositions (as per normal in cases involving persons without status in this country) and/or produce the witnesses for trial.

STATEMENT REGARDING LOCAL RULE 88.9

Undersigned counsel conferred with AUSA Andres Chinchilla who expressed he has no objection to this motion. The Federal Defender's Office joins in the motion on behalf of Seden Rodriguez and undersigned counsel was unable to reach counsel for Villares.

RESPECTFULLY SUBMITTED

By: /s/ Celeste Siblesz Higgins
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CERTIFICATE OF SERVICE

I HEREBY certify that on January 29, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or *pro se* parties identified

in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing.

/s/ **Celeste S. Higgins**

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ORDER TO PRESERVE EVIDENCE

THIS CAUSE having come before the Court on the Defendant's Motion to Preserve Potentially Exculpatory Evidence in the form of witnesses to the events in this case who were allegedly smuggled into the United States and/or transported within the United States and undocumented aliens, and the Court having reviewed the record and being fully advised in the premises, it is

ORDERED AND ADJUDGED that the Motion to Preserve is **GRANTED**. The United States shall work with Immigration Enforcement authorities in this case and ensure that they are preserved as possible material witnesses in this case until

[purposely left blank]

a further determination as to their knowledge of the events which transpired can be made.

DONE AND ORDERED at Fort Lauderdale, Florida this ____ day of January 2025.

HONORABLE LAUREN LOUIS
UNITED STATES MAGISTRATE JUDGE

cc: Celeste S. Higgins, Esq.
Andres Chinchilla, AUSA